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801 Capitol Mall • Sacramento, California 95814

DATE: December 20, 2001

TO: **ALL STATE AGENCIES AND EMPLOYEE ORGANIZATIONS**

SUBJECT: **PUBLIC HEARING TO AMEND THE CALIFORNIA CODE OF REGULATIONS SECTION 433 AND ADOPT NEW SECTION 433.1**

PLEASE TAKE NOTICE THAT, on Tuesday, January 8, 2002, at 2:30 p.m. in the Auditorium, B-201, San Francisco Civic Center, 455 Golden Gate, San Francisco, CA 94102, the State Personnel Board (SPB) will conduct a public hearing. The purpose of the hearing is to allow written and oral comments on the recommendations of SPB staff to amend the California Code of Regulations Section 433 and adopt new Section 433.1.

We are providing you with the attached copy of the Board Item that will be presented to the five-member State Personnel Board at its January 8, 2002, hearing. If you have any questions regarding the hearing, you may contact Rosie Jauregui at (916) 653-1827 or Margaret Serenity at (916) 653-0108.

Interested parties are invited to submit written comments no later than December 28, 2001, to Rosie Jauregui, State Personnel Board, 801 Capitol Mall, MS 55, P.O. Box 944201, Sacramento, CA 94244-2010. If you would like to make an oral presentation, please contact the Secretariat's Office at (916) 653-0429, CALNET 8-453-0429 or TDD (916) 654-2360, no later than January 4, 2002.

Mike Willihnganz
Chief, Policy Division

Attachment

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TO: STATE PERSONNEL BOARD (SPB)

FROM: MARTHA ESMAEL, Manager, Quality Assurance and Policy
Consultation Unit
MIKE WILLIHNGANZ, Chief, Policy Division

REVIEWED BY: LAURA M. AGUILERA
Assistant Executive Officer

REASON FOR HEARING:

A hearing has been scheduled to allow comments from interested parties on the proposed amendment to the California Code of Regulations (CCR) Section 433, Voluntary Transfers Between Classes and the adoption of new CCR Section 433.1, Voluntary Transfers Between Classes – Bargaining Unit (BU) 10 Employees. The proposed amendment and new section would prohibit transfers of employees into rank and file classifications assigned to BU 10, unless employees meet the minimum educational requirements identified in the respective class specification. The new section also identifies classes in BU 10, which are excluded from the transfer restriction.

SUMMARY OF ISSUES:

The State Personnel Board (SPB) staff, in conjunction with the California Association of Professional Scientists (CAPS), have met and mutually agreed to amend CCR Section 433 and establish CCR Section 433.1 to restrict transfers into classifications assigned to BU 10.

BACKGROUND:

On November 6, 2001, a hearing was held to present the findings from the SPB survey of departments who are primary users of BU 10 classes. The hearing also allowed comments from interested parties on the recommendations of SPB staff to pursue an amendment to CCR Section 433, which would prohibit transfers into any rank and file classification assigned to BU 10 (excluding Pest Prevention Assistant I, II, and III) unless employees met the minimum qualifications identified in the respective class specifications. The SPB staff recommendation also provided for a process whereby departments could request approval from the Executive Officer, SPB, for an exemption to the transfer restriction.

Since CAPS and SPB did not reach agreement prior to the hearing, both presented their own recommendations to the five-member State Personnel Board. The SPB staff recommended a less restrictive regulation amendment, as described above, which was based on department responses to the SPB survey. CAPS'

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recommendation was to pursue an amendment that would restrict transfers into all BU 10 classes (excluding ten) unless employees met the minimum educational requirements identified in the respective class specification.

Following the hearing, SPB conducted further research and determined it could support a restriction of transfer into those classes in BU 10 that currently require at least a four-year degree as part of the minimum qualifications of the class. SPB staff met with CAPS and presented this list of classes with a revised regulation amendment. Subsequently, CAPS and SPB staff reached agreement to amend CCR Section 433 and adopt new CCR Section 433.1 as indicated on the attachment.

RECOMMENDATION:

That the following Resolution be adopted:

WHEREAS, Article VII, Section 3, Constitution of the State of California, and Government Code Section 18701 provide the five-member State Personnel Board with the administrative authority to establish minimum appointment qualifications for all civil service classifications and to adopt and repeal rules authorized by statute; and

WHEREAS, California Code of Regulations, Section 433, provides appointing powers the authority to permissively allow employees to transfer between classes having substantially the same salary when the employee possesses any license, certificate, or registration required in the class specification and if the classes do not have a promotional relationship; and

WHEREAS, the State Personnel Board staff and the California Association of Professional Scientists, have agreed to amend the California Code of Regulations, Section 433 and adopt new California Code of Regulations Section 433.1 to require employees transferring into Bargaining Unit 10 classes, except for classes identified in the new rule, to meet the minimum educational requirements; therefore be it

RESOLVED, that the five-member State Personnel Board adopt the attached proposed amendment to California Code of Regulations Section 433 and the new California Code of Regulations Section 433.1.

Regulations Governing Voluntary Transfers Between Classes

All new text is indicated by underline. A double underline with italics indicates new text that is intended to be single underlined in the final printing.

Title 2. ADMINISTRATION

Division 1. Administrative Personnel

Chapter 1. State Personnel Board

§ 433 Voluntary Transfers Between Classes.

Unless specifically prohibited pursuant to Section 430 or the provisions of 433.1, appointing powers may allow employees to voluntarily transfer between classes when the employee possesses any licenses, certificates, or registration required in the "to" class provided that either:

(a) The salary range of the "to" class is exactly the same or any amount lower than that of the "from" class.

Or

(b) The salary range of the "to" class is any amount higher than that of the "from" class, provided that:

(1) It is not a promotional salary range; and

(2) The two classes are in different class series unless the board specifically provides for transfer within a series;
and

(3) There is no class in the "to" series that is exactly the same in salary as the "from" class; and

(4) The "to" class is the class in its series that is immediately higher in pay than the "from" class; and

(5) The transfer does not preclude a future transfer that is part of the established upward mobility pattern
through which the employee is moving; and

(6) The two classes do not contain positions that have a supervisory-subordinate relationship under the
appointing power making the transfer.

In applying these criteria, separate salary ranges within a class shall be treated as if they were separate classes when a board resolution allows salary ranges other than the lowest range for the class to be used for salary comparison purposes.

NOTE: Authority cited: Section 18701, Government Code.
Reference: Section 19050.4, Government Code.

§ 433.1 Voluntary Transfers Between Classes-Bargaining Unit 10 Employees.

Unless specifically prohibited pursuant to Section 430, appointing powers may allow employees to voluntarily transfer between classes when the employee possesses any licenses, certificates, or registration required in the "to" class provided that either:

- (a) The salary range of the "to" class is exactly the same or any amount lower than that of the "from" class; and, for any class assigned to State Bargaining Unit 10, excluding the following listed classes, the employee shall meet the minimum education requirement as identified in the respective class specification: Energy Resources Specialist I and II; Hazardous Materials Specialist, Associate Hazardous Materials Specialist and Senior Hazardous Materials Specialist (Technical); [Associate Energy Specialist \(Efficiency\) and Energy Commission Specialist I, II, and III \(Efficiency\)](#); [Associate Energy Specialist \(Forecasting\) and Energy Commission Specialist I, II, and III \(Forecasting\)](#); [Associate Energy Specialist \(Technology Evaluation and Development\) and Energy Commission Specialist I, II, and III \(Technology Evaluation and Development\)](#); [Assistant and Associate Geologist and Senior Geologist \(Specialist\)](#); [Associate Geophysicist](#); [Health and Safety Program Specialist I, II, and III](#); [Land and Water Use Analyst and Associate Land and Water Use Analyst](#); [Assistant and Associate Meteorologist](#); [Senior Meteorologist](#); [Water Resources](#); [Microbiologist Intern](#); [Petroleum Geologist](#); [Textile Chemist I and II](#); [Integrated Waste Management Specialist and Senior Integrated Waste Management Specialist](#); and [Pest Prevention Assistant I, II, and III \(Various Projects\)](#).

Or

- (b) The salary range of the "to" class is any amount higher than that of the "from" class, provided that:
- (1) It is not a promotional salary range; and
 - (2) The two classes are in different class series unless the board specifically provides for transfer within a series; and
 - (3) There is no class in the "to" series that is exactly the same in salary as the "from" class; and
 - (4) The "to" class is the class in its series that is immediately higher in pay than the "from" class; and
 - (5) The transfer does not preclude a future transfer that is part of the established upward mobility pattern through which the employee is moving; and
 - (6) The two classes do not contain positions that have a supervisory-subordinate relationship under the appointing power making the transfer; and

(7) For any class assigned to State Bargaining Unit 10, excluding the following listed classes, the employee shall meet the minimum education requirement as identified in the respective class specification: Energy Resources Specialist I and II; Hazardous Materials Specialist, Associate Hazardous Materials Specialist and Senior Hazardous Materials Specialist (Technical); Associate Energy Specialist (Efficiency) and Energy Commission Specialist I, II, and III (Efficiency); Associate Energy Specialist (Forecasting) and Energy Commission Specialist I, II, and III (Forecasting); Associate Energy Specialist (Technology Evaluation and Development) and Energy Commission Specialist I, II, and III (Technology Evaluation and Development); Assistant and Associate Geologist and Senior Geologist (Specialist); Associate Geophysicist; Health and Safety Program Specialist I, II, and III; Land and Water Use Analyst and Associate Land and Water Use Analyst; Assistant and Associate Meteorologist; Senior Meteorologist, Water Resources; Microbiologist Intern; Petroleum Geologist; Textile Chemist I and II; Integrated Waste Management Specialist and Senior Integrated Waste Management Specialist; and Pest Prevention Assistant I, II, and III (Various Projects).

In applying these criteria, separate salary ranges within a class shall be treated as if they were separate classes when a board resolution allows salary ranges other than the lowest range for the class to be used for salary comparison purposes.

NOTE: Authority cited: Section 18701, Government Code.
Reference: Section 19050.4, Government Code.